

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case Number: 02-23682-CIV-MARTINEZ-MCALILEY

STEVE BROTHER,

Plaintiff,

vs.

FLORIDIAN HOTEL, INC.,

Defendant.

**ORDER NOT ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION**

THE MATTER was referred to the Honorable Chris McAliley, United States Magistrate Judge for a Report and Recommendation on Plaintiff's Motion for Court Enforcement of Stipulation for Settlement, and Request for Evidentiary Hearing (D.E. No. 10). Plaintiff's Motion for Court Enforcement of Stipulation for Settlement was served on Defendant's counsel from 2003. Because it was unclear from the record whether this counsel currently represents Defendant, the Court ordered Plaintiff to personally serve a copy of the motion on Defendant and file proof of service no later than November 30, 2011. (D.E. No. 14). The Magistrate Judge filed a Report and Recommendation (D.E. No. 15) recommending the motion be denied without prejudice due to Plaintiff's failure to file the required proof of service and comply with the Court's Order. Plaintiff filed objections to the Report and Recommendation (D.E. No. 17) explaining that counsel was on vacation, failed to properly calendar the Court's deadline and was unable to serve the Motion on Defendant until December 7, 2011. The Court has reviewed the entire file and record and being otherwise fully advised in the premises, it is

ORDERED AND ADJUDGED that


1. Because Plaintiff has now personally served the Motion on Defendant, Magistrate Judge McAliley's Report and Recommendation (D.E. No. 15) is **NOT ADOPTED**. However, the Court stresses the importance of complying with Court orders and deadlines.

2. PURSUANT to 28 U.S.C. § 636(b)(1) and the Magistrate Rules of the Local Rules of the Southern District of Florida, the above-captioned cause is referred back to United States Magistrate Judge **Chris McAliley** to take all necessary and proper action as required by law with respect to:

All matters relating to Plaintiff's Motion For Court Enforcement of Stipulation For Settlement. (D.E. No. 10).

It is the responsibility of the parties in this case to **indicate the name of the Magistrate Judge on all motions and related papers referred by this order in the case number caption (CASE NO.: 02-23682-CIV-MARTINEZ-MCALILEY).**

DONE AND ORDERED in Chambers at Miami, Florida, this 9 day of December, 2011.



JOSE E. MARTINEZ
UNITED STATES DISTRICT JUDGE

Copies provided to:
Magistrate Judge McAliley
All Counsel of Record